

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

CRIMINAL NO. 1:15CR70-4
(Judge Keeley)

BRIAN K. WILSON,

Defendant.

ORDER ACCEPTING AND ADOPTING MAGISTRATE JUDGE'S
OPINION/REPORT RECOMMENDATION CONCERNING PLEA OF GUILTY IN
FELONY CASE (DKT. NO. 74) AND SCHEDULING SENTENCING HEARING

On September 22, 2015, the defendant, Brian K. Wilson ("Wilson"), appeared before United States Magistrate Judge John S. Kaul and moved for permission to enter a plea of GUILTY to Count Six of the Indictment. Wilson stated that he understood that the magistrate judge is not a United States District Judge, and consented to pleading before the magistrate judge. This Court had referred the guilty plea to the magistrate judge for the purposes of administering the allocution pursuant to Federal Rule of Criminal Procedure 11, making a finding as to whether the plea was knowingly and voluntarily entered, and recommending to this Court whether the plea should be accepted.

Based upon Wilson's statements during the plea hearing and the testimony of Matt Kocher, Greater Harrison County Drug and Violent Crimes Task Force, the magistrate judge found that Wilson was competent to enter a plea, that the plea was freely and voluntarily

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OPINION/REPORT RECOMMENDATION CONCERNING PLEA OF GUILTY IN
FELONY CASE (DKT. NO.74) AND SCHEDULING SENTENCING HEARING**

given, that he was aware of the nature of the charges against him and the consequences of his plea, and that a factual basis existed for the tendered plea. On September 23, 2015, the magistrate judge entered an Opinion/Report and Recommendation Concerning Plea of Guilty in Felony Case ("R&R") (dkt. no. 74) finding a factual basis for the plea and recommended that this Court accept Wilson's plea of guilty to Count Six of the Indictment.

The magistrate judge also directed the parties to file any written objections to the R&R within fourteen (14) days after service of the R&R. The magistrate judge further directed that failure to file objections would result in a waiver of the right to appeal from a judgment of this Court based on the R&R. The parties did not file any objections to the R&R.

Accordingly, this Court **ADOPTS** the magistrate judge's R&R, **ACCEPTS** Wilson's guilty plea, and **ADJUGES** him **GUILTY** of the crime charged in Count Six of the Indictment.

Pursuant to Fed. R. Crim. P. 11(e)(2) and U.S.S.G. § 6B1.1(c), the Court **DEFERS** acceptance of the proposed plea agreement until it has received and reviewed the presentence report prepared in this matter.

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OPINION/REPORT RECOMMENDATION CONCERNING PLEA OF GUILTY IN
FELONY CASE (DKT. NO.74) AND SCHEDULING SENTENCING HEARING**

Pursuant to U.S.S.G. § 6A1 et seq., the Court **ORDERS** as follows:

1. The Probation Officer shall undertake a presentence investigation of **BRIAN K. WILSON**, and prepare a presentence report for the Court;

2. The Government and Wilson are to provide their versions of the offense to the probation officer by **December 7, 2015**;

3. The presentence report is to be disclosed to Wilson, defense counsel, and the United States on or before **December 21, 2015**; however, the Probation Officer is not to disclose the sentencing recommendations made pursuant to Fed. R. Crim. P. 32(e)(3);

4. Counsel may file written objections to the presentence report on or before **January 4, 2016**;

5. The Office of Probation shall submit the presentence report with addendum to the Court on or before **January 18, 2016**;
and

6. Counsel may file any written sentencing statements and motions for departure from the Sentencing Guidelines, including the

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OPINION/REPORT RECOMMENDATION CONCERNING PLEA OF GUILTY IN
FELONY CASE (DKT. NO.74) AND SCHEDULING SENTENCING HEARING**

factual basis from the statements or motions, on or before **February 1, 2016.**

The magistrate judge continued Wilson on bond pursuant to the Order Setting Conditions of Release (dkt. no. 17) entered on July 28, 2015 and amended on July 31, 2015 (dkt. no. 36).

The Court will conduct the sentencing hearing for the defendant on **Tuesday, February 9, 2016 at 12:15 P.M.** at the **Clarksburg, West Virginia** point of holding court.

It is so **ORDERED.**

The Clerk is directed to transmit copies of this Order to counsel of record, the defendant and all appropriate agencies.

DATED: October 7, 2015

/s/ Irene M. Keeley
IRENE M. KEELEY
UNITED STATES DISTRICT JUDGE